

Chapter 9 Transition planning

Chapter 9, Section 1

About this chapter

9.1.1 Purpose of this chapter

What this chapter will cover

Transition planning identifies and describes the steps required to transition to a new provider of a competitively contracted service. These steps may include, but are not limited to:

EBU award

- Acquiring new resources
- Creating new position descriptions
- Laying-off or re-classification of displaced employees (non-EBU members)
- Re-classifying and re-appointing EBU members
- Implementing new operating procedures (to include a lay-off procedure per WAC 357-43-095)

Private service provider award

- Acquiring new resources
- Laying-off or reclassification of displaced employees
- Transition of state employees to the employment of the private service provider (if applicable)
- Use of or access to state property and facilities
- Disposition of materials and equipment not needed by the private service provider

This chapter also outlines the general roles and responsibilities of key leaders in the transition phase.

9.1.2 Timeframe

What span of time is covered in a transition?

A transition period begins on the date of award as described in WAC 236-51-610 and ends with a new service provider performing the work under contract. The length of any transition depends largely on the complexities and scope of the service. Therefore, a transition period may vary from weeks to months. The length of time for any transition should be minimized in the interest of all parties involved. While the agency plans a competitive contracting solicitation, it should also develop a plan for transition. Why? Because either outcome (EBU or private service provider award) results in the need for a transition. Chapter 8 of this manual provides competitive contracting project related tasks, milestones, and deliverables to assist agencies in getting the planning effort started.

9.1.3 Appeal

When can an appeal be filed?

Within 20 calendar days of an award, an appeal may be filed by parties on the grounds specified in WAC 236-51-700. If an appeal is pending, the agency may stay the award decision per WAC 236-51-720. A pending appeal may or may not delay transition activities.

Considerations for an agency to stay an award during an appeal

If an appeal is filed, agencies will receive it in writing and, at a minimum, it shall include the appellant's name and a brief description on the grounds for an appeal along with a brief description of the issue(s) to be resolved (see WAC 236-51-715). At this point the agency must consider whether or not to stay the award. The list below is intended for reference only and is not an exclusive list.

Note: *The decision to stay or not stay an award is one that may benefit from the application of risk assessment and management techniques (see chapter 4).*

Considerations to stay an award

- An awardee, as part of their proposal, must invest considerably in new equipment or hire new staff to perform the service
- The extent to which the agency feels that the appeal has merit and administrative law judge will find for the appellant and remand the decision to award back to the agency
- The willingness or ability of displaced employees to stay on and continue to provide the service till the appeal is resolved
- The willingness or ability of a private service provider to stand-by and await the results of an appeal

Considerations not to stay an award

- The results of an appeal are unlikely to affect the decision to award
- The ability to sustain the current service is not possible due to attrition and/or equipment obsolescence
- The benefit to the customer, the public, or the state is great and delaying implementation will close the window to that opportunity

Chapter 9, Section 2

EBU award transition

9.2.1 Primary deliverables; EBU award transition

Acquiring new resources

For a successful EBU, an early focus may be on the acquisition of any needed equipment or securing of sub-contractors as specified in their bid. The transition time may be af-

affected by these acquisitions and lead-times and should be disclosed to the agency as soon as possible. For instance:

- Acquisition of capital equipment
- EBU solicitation of sub-contractors
- EBU recruiting and selection of needed staff

Creating new position descriptions

In order for an EBU to function properly, every member will need to understand their duties, roles, and responsibilities. Position descriptions will need to be created reflecting the EBU's hierarchy and how it fits in with the rest of the agency's organizational structure in order to better enable performance management and outline accountabilities.

Laying-off or re-classification of displaced employees (non-EBU members)

Employees who are not part of an EBU or are part of an EBU that was not awarded the bid are subject to their employer's lay-off procedure or are re-classified as required. WAC 357-46 Lay-off and Separation outlines the requirements of agencies in laying-off displaced employees.

Re-classifying and re-appointing EBU members

As described in WAC 357-43-025, on the effective date of the contract, the EBU members will be appointed in accordance with the terms and conditions of the contract. As a result, employees will need to be re-classified accordingly.

Implementing new operating procedures

An EBU will need to modify or create operating procedures and work rules based on the agreement. These operating procedures will require review and approval by the agency as required. One of these procedures will be the EBU's lay-off procedure as required by WAC 357-43-095.

9.2.2 Roles and responsibilities in the EBU award transition

Agency senior management

A key role played by an agency's senior management during an EBU award transition is to ensure that progress and momentum toward implementation is being maintained. This is accomplished by reviewing and approving a transition plan developed jointly by the EBU and the agency contract administrator. An agency senior management should also require from the EBU leader(s) and the agency contract administrator, regular reporting on progress and immediate notification when roadblocks are encountered that threatens the transition.

Agency contract administrator

In conjunction with an EBU leader(s), the agency contract administrator develops the transition plan by identifying key milestones and deliverables along with outlining the timeline and resources needed for success. The agency contract administrator ensures that the transition results in an implementation of an EBU that will provide the service consistent with its proposal and the terms and conditions of the contract.

EBU leader(s)

While all EBU members are jointly responsible for the EBU's performance in complying with the terms and conditions of the contract, the EBU leader(s) assume management responsibilities and now become responsible for the output of the EBU. This includes the deliverables outlined in the transition plan.

EBU members

In many cases EBU members will be performing their old jobs while also assisting in the transition. Patience and flexibility will be the important during the transition period. After transition, the EBU members are responsible for the EBU's performance.

*Chapter 9, Section 3***Private service provider award****9.3.1 Primary deliverables; private service provider award transition****Acquiring new resources**

As with an EBU, a private service provider may need to secure new resources upon award of the contract. However, any problems recruiting new hires or financing capital equipment should be immediate red flags for the agency. These signs may indicate a weakness in the supplier's viability and ability to fulfill the requirements of the contract. These problems should have been identified during bid evaluation and risk assessment (see Chapter 6 and 4 respectively).

Laying-off or re-classification of displaced employees

Displaced employees are subject to their employer's lay-off procedure or are re-classified as required. WAC 357-46 Layoff and Separation outlines the requirements of agencies in laying-off displaced employees.

Transition of state employees to the employment of a private service provider (if applicable)

RCW 41.06.142 (1) (c) requires that a contract with an entity other than an EBU include a provision requiring the entity to consider employment of state employees who may be displaced by the contract. If, after consideration, a private service provider decides to hire all or some of the displaced employees, it will work with the agency and the displaced employees to determine the appropriate date of separation from state service. The scope and responsibility of employees (before, during, and after transition) who are being considered for employment by a private service provider will need to be evaluated to determine what, if any, ethics or legal restrictions may apply. Agencies with questions should consult with their legal counsel or the Executive Ethics Board with any questions or concerns (see <http://ethics.wa.gov/>).

Note: *The law did not intend for agencies to compel private bidders to hire potentially displaced employees nor indicate the manner in which it should consider them.*

Use of or access to state property and facilities

Background checks and access to facilities and/or use of state property will need to be factored in. Terms and conditions of access and/or use of state resources should be spelled out in the contract along with expectations of private service provider staff on site.

Disposition of materials and equipment not needed by the private service provider

The sale or disposal of surplus materials and equipment may need to happen during the transition. Surplus of state property is governed under separate statute and rules (see <http://www.ga.wa.gov/customer/cust-surplus.htm>).

9.3.2 Roles and responsibilities in the private service provider award transition

Agency senior management

A key role played by an agency's senior management during a service provider award transition is to ensure that progress and momentum toward implementation is being maintained. This is accomplished by reviewing and approving a transition plan developed jointly by the private service provider and the agency contract administrator. An agency's senior management should also require from the private service provider transition leader and the agency contract administrator, regular reporting on progress and immediate notification when roadblocks are encountered that threatens the transition.

Agency contract administrator

In conjunction with the private service provider transition leader, the agency contract administrator develops the transition plan by identifying key milestones and deliverables along with outlining the timeline and resources needed for success. The agency contract administrator ensures that the transition results in an implementation of a service that is consistent with the private service providers' proposal and the terms and conditions of the contract.

Private service provider senior management

Takes part in progress updates and reviews along with agency senior management to ensure that the transition is moving along as planned and removes any roadblocks as required.

Private service provider transition leader

Works in conjunction with the agency contract administrator to complete the transition per plan.

Schedule A Performance Work Statement (PWS) Outline

1. Background
2. Scope
3. Tasks to be performed
4. Deliverables
5. Business requirements
6. Performance verification
7. References
8. Attachments

Schedule B Quality Assurance Plan (QAP) Outline

1. Introduction section
2. Statement of objective section
 - 2.1. Results
 - 2.2. Standards of performance
 - 2.3. Service provider compliance
 - 2.4. Root-cause analysis and corrective action
 - 2.5. Incentives
3. Roles & responsibilities section
4. Verification methods section
5. Corrective action process
6. Provider quality control plan